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MONTANA LEGISLATIVE HISTORY

Chapter 661 1991

Bill H _____ S 343 Original bill & history ____C

H. Committee on Labor & Employment Relations		S. Committee on Labor & Employment Relations	
Hearing Date(s) March ✓C		Hearing Date(s) Feb 19 ✓C	
_____ ____C		_____ ____C	
_____ ____C		_____ ____C	
_____ ____C		_____ ____C	
Date Out March ✓C		Feb 19 ✓C	

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Conference Committee

Apr 10 ✓C

2/26	2ND READING PASSED	48	0
2/27	3RD READING PASSED	47	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/20	HEARING		
3/20	TABLED IN COMMITTEE		

SB 343 INTRODUCED BY RYE
GRANT LABOR DEPARTMENT DISCRETION TO DETERMINE AMOUNT DUE UNINSURED FUND
BY REQUEST OF DEPARTMENT OF LABOR & INDUSTRY

2/09	ON MOTION RULES SUSPENDED TO ALLOW FOR LATE INTRODUCTION	47	0
2/09	INTRODUCED		
2/11	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/11	FIRST READING		
2/19	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/11	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED AS AMENDED	89	1
3/18	3RD READING CONCURRED	88	10
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS NOT CONCURRED	47	0
3/28	CONFERENCE COMMITTEE APPOINTED		
4/11	CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/18	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	4
	HOUSE		
4/03	CONFERENCE COMMITTEE APPOINTED		
4/10	CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	94	4
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	87	5
4/23	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/25	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 661	EFFECTIVE DATE: 10/01/91	

SB 344 INTRODUCED BY PINSONEAULT, ET AL.
USE OF DEADLY FORCE TO PREVENT SEXUAL INTERCOURSE WITHOUT CONSENT

2/09	INTRODUCED		
2/11	REFERRED TO JUDICIARY		
2/11	FIRST READING		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED		
2/23	2ND READING PASSED	49	0
2/25	3RD READING PASSED	49	0

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE BILL 343

Call to Order: By Senator Tom Towe , on April 10, 1991, at 11:30 A.M.

ROLL CALL

Members Present:
Senator Tom Towe, Chairman (D)
Senator Steve Doherty (D)
Senator David Rye (R)
Representative H.S. Hanson (R)
Representative Vicki Cocchiarella (D)

Members Excused:
Representative Timothy Whalen (D)

Staff Present: Dorothy Quinn (Committee Secretary)

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:
None

CONFERENCE COMMITTEE ACTION ON SENATE BILL 343

Discussion:

Senator David Rye provided background information on SB 343, stating it was heard before the Labor and Industry Committee. It attempts to provide the Department more flexibility in controlling the uninsured employers. The bill passed the Senate Labor Committee unanimously; testimony in favor came from both Mike Micone, Commissioner, Department of Labor and Industry, and Don Judge, AFL-CIO. Senator Rye commented it is rare to find those two gentlemen on the same side of labor. It also passed the Senate with only one or two dissenting votes, according to Senator Rye. The amendments which Representative Whalen added on in the House actually returned the bill to the form of existing law. In Senator Rye's judgment, there is no reason to have a bill if the House amendments stay the way there are. He asked Mr. Micone if that interpretation was correct, to which Mr. Micone answered affirmatively.

Representative Hanson advised that Representative Jerry Driscoll felt that this was not necessary. The idea is to encourage those that are not insured to come on the system. For

some reason Rep. Whalen felt strongly that the amendments should be added, according to Rep. Hanson.

Senator Rye informed the bill deals with regulating employers who have not chosen to insure themselves. The penalty for non-payment would be double the premium or $200, whichever is greater.

Mike Micone stated that as they understood Rep. Whalen's concern, he wanted to ensure the solvency of the Uninsured Employers Fund. Their information shows that the balance there is approximately $800,000, which is solvent for the claims that they are seeing. The Labor Department agreed there should be a penalty, but he posed the question: is it fair for an employer to be assessed $200 for late payment of a $20.00 premium. The Department was looking for the flexibility that would allow them to analyze each instance case by case to determine what the penalty should be. Senator Towe pointed out that this bill gives the Department the right to waive the penalty in view of an unintentional violation. Mr. Micone said his interpretation is that there is nothing in between - they either waive it or charge double. He also pointed out that the language regarding "unintentional violation" caused concern because practically every employer would give the rationale that it is unintentional.

Rep. Cocchiarella asked Mr. Micone if this gives them the flexibility of waiving a penalty if the employee shows the violation was unintentional. He responded that by changing "shall" to "may" in Section 1, line 16, they would have that flexibility.

Recommendation and Vote:

Senator Rye made a motion that the amendment to strike "shall" and insert "may" on Page 1, line 16; and insert "up to" following "either" on page 1, line 18; and strike from "If" on line 22 through "waived." on line 24, be adopted.

Those in favor - 5; opposed - 0. (Rep.Whalen absent)
MOTION CARRIED.

ADJOURNMENT

Adjournment At: 11:50 A.M.

TOM TOWE, Chairman

DOROTHY QUINN, Secretary

TT/dq

AG041091.SM1

Conference Committee
on Senate Bill No. 343
Report No. 1, April 10, 1991

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 343, met and considered the House Committee of the Whole amendment dated March 16, 1991:

We recommend that Senate Bill No. 343 (reference copy - salmon) be amended as follows:

1. Page 1, line 16.
Strike: "SHALL"
Insert: "may"

2. Page 1, line 18.
Following: "EITHER"
Insert: "up to"

3. Page 1, lines 22 through 24.
Strike: "IF" on line 22 through "WAIVED." on line 24.

And that this Conference Committee report be adopted.

For the Senate:

Chair, Sen. Towe

Sen. Doherty

Sen. Rye

Amd. Coord.

Sec. of Senate

ADOPT

REJECT

For the House:

Chair, Rep. Whalen

Rep. H. S. Hanson

Rep. Cocchiarella

761247CC.Sji

ROLL CALL VOTE

CONFERENCE
~~SENATE~~ COMMITTEE

Date 4/10/91 Bill No. SB 343 Time

NAME	YES	NO
SENATOR TOWE	X	
SENATOR DOHERTY	X	
SENATOR RYE	X	
REP. WHALEN		
REP. COCCHIARELLA	X	
REP. H. S. HANSON	X	

DOROTHY QUINN
Secretary

SEN. TOM TOWE
Chairman

Motion: Sen Rye made a motion that the amendment be adopted. Those in favor 5; Opposed - 0. Motion CARRIED.

Senator Rye made a motion that Section 1, line 16, be changed to read "may" require that the uninsured employer pay to the fund a penalty up to either double the premium amount the employer would have paid on the payroll of the employer's workers in this state if the employer had been enrolled with compensation plan No. 3 or $200, whichever is greater."

ROLL CALL

CONFERENCE COMMITTEE

RE SB 343

DATE 4/10/91

52nd LEGISLATIVE SESSION ____

NAME	PRESENT	ABSENT	EXCUSED
SENATOR TOWE (CHAIR)	X		
SENATOR DOHERTY	X		
SENATOR RYE	X		
REP. WHALEN (CHAIR)		X	
REP. COCCHIARELLA	X		
REP. H. S. HANSON	X		

Each day attach to minutes.

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Richard Manning, on February 19, 1991, at 3:25 p.m.

ROLL CALL

Members Present:
Richard Manning, Chairman (D)
Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: NONE.

Staff Present: Tom Gomez (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: NONE.

HEARING ON SENATE BILL 343

Presentation and Opening Statement by Sponsor:

Senator David Rye told the Committee Senate Bill 343 is at the request of the Department of Labor and Industry. This bill would allow the department more flexibility in dealing with the uninsured employers fund.

Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry explained the present law states the department shall require a penalty; double the premium amount the employer failed to pay for workers' compensation insurance or $200 whichever is greater. He explained a number of instances in which the level of penalty is contested by the employer. This requires a contested case hearing, causes delay, and may involve the department in a court case. He explained the more flexibility the department has in working with the employers, the greater opportunity in resolving the cases. An example he cited involved

an employer who purchased a business and thought there was workers' compensation coverage. Thirty days after he took over operation of the business he discovered he was not covered. He immediately applied for coverage. The application triggered the department to conduct an audit which determined a period of approximately 60 days of non-coverage. In this instance the premium was $21.00. According to present law a $200 penalty was imposed. He explained the department wishes to have the flexibility to negotiate penalties and avoid contested case hearings.

Don Judge, Executive Secretary of the Montana State AFL-CIO spoke in support of Senate Bill 343. He explained the onus on the department to apply penalties in appropriate places, otherwise the burden of paying payroll tax falls on good employers paying the tax.

Opponents' Testimony:

NONE.

Questions From Committee Members:

NONE.

Closing by Sponsor:

Senator Rye closed on Senate Bill 343.

EXECUTIVE ACTION ON SENATE BILL 343

Motion:

Senator Towe moved Senate Bill 343 DO PASS.

Discussion:

NONE.

Amendments, Discussion, and Votes:

NONE.

Recommendation and Vote:

Motion to DO PASS CARRIED UNANIMOUS.

HEARING ON SENATE BILL 365

Presentation and Opening Statement by Sponsor:

Senator Tom Keating explained the purpose of Senate Bill 365

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 2/19/91

___ LEGISLATIVE SESSION ___

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING	P		
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 19, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 343 (first reading copy - white), respectfully report that Senate Bill No. 343 do pass.

Signed: _____
Richard E. Manning, Chairman

EB
Amd. Coord.

2-20-91
Sec. of Senate

DATE 2/11/91

COMMITTEE ON Senate Labor

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Donna Alexander	MT Petroleum Marketers	SB365	X	
Jack Troxper	MT Automotive Trade Association / Associated Builders & Contractors	365	X	
Don Edwards	OCAW	365		X
Jay Retherdon	UCWA Local 72	365		X
Don Judge	MT STATE AFL-CIO	SB343	X	
Don Judge	MT STATE AFL-CIO	SB365		X
Michael Sherwood	MTLA	SB365		X
Bob Heiser	U.F.C.W.	SB 365		X
Dorothy Fraplen	Eagle Forum/Montana	SB365	X	
EUGENE FENDERSON	MT ST Bldg Trade.	SB365		X
DON EDWARDS	OCAW	SB 365	X	
George Wood	MT. Self Insurers Assn.	SB 365		X
Leon Stalcup	MT Restaurant Assoc	SB 365		X

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES** on March 11, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Gary Beck (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Royal Johnson (R)
Thomas Lee (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Fred Thomas (R)
Dave Wanzenried (D)
Tim Whalen (D)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 343

Presentation and Opening Statement by Sponsor:

SEN. DAVID RYE, Senate District 47, Billings, said SB 343 is an act to grant the Department of Labor and Industry discretionary authority in determining the amount owed to the Uninsured Employers' Fund by an uninsured employer. There is no fiscal impact because the Uninsured Employers' Fund doesn't come out of the General Fund.

Proponents' Testimony:

Mike Micone, Commissioner, Department of Labor, said a recent employer had an uninsured period of about 60 days by accident.

The employer purchased the business and thought it was covered by Workers' Compensation. Thirty days later he found out it wasn't covered and applied to the State Fund for coverage. That triggered an audit which mandated the Department to look at his books. It was determined that the business owed $20 in premium, but because of the law there is a $200 penalty mandated. It would be more fair to allow the Department to impose the 100 percent penalty.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. RYE said the bill has no controversy and will solve some internal problems of the Department of Labor. It will solve the problem of employers who refuse to insure their workers even though their workers are entitled to the insurance. Rep. Benedict will carry the bill.

HEARING ON SB 237

Presentation and Opening Statement by Sponsor:

SEN. JERRY NOBLE, Senate District 21, Great Falls, said SB 237 brings the Montana Code into compliance with the federal wage and hour standards. Currently, if a person is exempted from overtime pay as an outside salesman, he must be specifically exempt from the Code by reference. Page 3 lists salesman, partsman, or mechanic who are primarily engaged in selling trailers, boats, or aircraft. Page 4, Line 4, 7, and 14, have exemptions. In practice, this has been overlooked by many employers, employees, and the Department of Labor. The Senate Committee strictly made the exemption in this bill for office equipment salesmen.

Proponents' Testimony:

Charles Brooks, Executive Vice President, Montana Retail Association, presented written testimony and a copy of the Fair Labor Standards Act. **EXHIBIT 1**

Sierra Wolf, Davis Business Machines, presented written testimony. **EXHIBIT 2.** She presented written testimony for **Loren Davis, President, Davis Business Machines. EXHIBIT 3**

Terry Harris, President, Capital Office Equipment, said it is difficult to keep track of the hours that outside salespeople work. It would be difficult for an employer to tell an outside salesman that he could only work a certain amount of hours. A new salesperson is learning and most of his training is done after 5:00 or on the weekends. These salespeople don't want to be out of their sales territories during the week when they have a chance to make money.

Blatter's concern, with the armored car problem and security guards, has been taken care of. He had asked about it before the bill was heard in the Senate. An amendment on Page 4, Lines 14-15 was done specifically for Mr. Blatter. If he can't afford to hire someone full time, and if he is going to hire new people just to work a strike, they should qualify. If he has good people, there is not going to be a problem. The Decker company hired security guards, and they are working there today, but Decker also hired Baker and Associates which was a company that works nothing but strikes. The purpose was to cause disruption, and make the violence appear that it was caused by the union. It may be beneficial to add "or lock out" after the word "strike" on Page 2, Line 25.

EXECUTIVE ACTION ON SB 343

Motion: **REP. JOHNSON MOVED SB 343 BE CONCURRED IN.**

Discussion:

REP. THOMAS asked if this was in regard to Workers' Compensation. **CHAIR SQUIRES** said it is in Unemployment Insurance (UI).

REP. O'KEEFE asked **Ms. McClure** if it was possible to meet the intent of the bill and require the Department to collect the premium owed. He doesn't want the Department to say, "you're nice guys, you only have to pay $25 and you're in." **Ms. McClure** said that certainly removes any "discretion" on the part of the Department.

REP. BENEDICT suggested to **Ms. McClure** to insert "at least the premium owed" after "penalty of" on Page 1, Line 17. **Ms. McClure** said "the amount of the premium" could be inserted.

Motion: **REP. O'KEEFE** moved to amend SB 343 as Rep. Benedict described.

REP. THOMAS said this deals with Workers' Compensation and not UI. There is a minimum premium due from every employer to insure, which is about $125. In this case the minimum premium times two would equal $250. Whatever the premium would do for a year would be the minimum of whatever the Department says. Maybe there is already a minimum in there in excess of $200.

REP. DRISCOLL said presently, the penalty is twice the premium amount or $200 whichever is greater. So, if a person only owed $50 in premium, he would pay $200. If it is to be consistent with the other bills passed out of this Committee, an amendment should be drafted to say the uninsured employer would pay the premium due plus no less than 2 points over prime and no more than 100 percent penalty. **REP. O'KEEFE** said that solves the problem. Currently in the bill, they can charge up to double the premium amount the employer would have paid, but it doesn't say that he has to pay at least the premium amount owed.

REP. THOMAS asked **Ms. McClure** if the premium would be due and payable from another clause anyway. Is this just the penalty that is being addressed? **Ms. McClure** said she couldn't answer that and would have to look at the Codes. **REP. DRISCOLL** said if an employee, who is working for an uninsured employer, gets injured, he could sue the employer for liability. If it is a small employer it sometimes isn't worth the effort. If the Labor Division catches the employer cheating, presently the fine would be twice what the premium would have been. A premium needs to be paid or the employer still doesn't have insurance.

Motion: **REP. DRISCOLL** made a substitute motion to amend SB 343.

REP. BENEDICT said he supported the amendment.

Motion: **REP. O'KEEFE'S** previous motion to amend SB 343 was withdrawn.

REP. THOMAS asked **Ms. McClure** if it could be determined as to whether they are required to pay a premium and where the premium goes if it is paid. Would the State Fund collect a premium, because if it did then that firm would have been covered. This is funding an Uninsured Employers' Fund through the penalty process. Is there a premium that is collected? **REP. DRISCOLL** said if an employer is caught without Workers' Compensation before there is an accident, then he is required to get a policy. This is the fine for not having a policy. If the employer is caught after a claim is filed by an injured worker, the injured worker has the option of going to this Uninsured Employers' Fund or to court to sue the employer. If an employer doesn't have a policy, he is not covered by the limited liability of Workers' Compensation in the Constitution. If an employee is working for an employer who is "well off," he is better off to sue the employer than to go through Workers' Compensation. Normally, if an employee sued an employer who didn't have coverage, he wouldn't get anything anyway. So, most injured workers go through the Uninsured Employers' Fund, and the Division tries to get the money and may have to get a court order to stop production until the employer gets insured. **REP. THOMAS** said Page 1, Line 21, describes how the premium is then determined. He read from the bill, "In determining the premium amount for the calculation of the penalty under this subsection, the Department shall make an assessment on how much premium would have been paid on the employer's past three-year payroll for periods within the three years when the employer was uninsured." That would be doubled to figure the penalty. That penalty, if paid, goes into this Fund. A back premium is not collected. It shouldn't be amended that a premium be collected, because the employer would be insured automatically. In this case a penalty is being collected for not insuring and that goes into the Uninsured Employers' Fund. **REP. DRISCOLL** said currently when an employer is caught being uninsured, the penalty is double what the premium would have been or $200. This bill is asking for discretion for the Department to fine the uninsured employer up to 100 percent

of what the premium would have been up to double the amount. The purpose is to get the employer insured, not to fine him and put him out of business. **REP. O'KEEFE** said he didn't want to collect the total penalty, but just the minimum amount of the premium owed. **REP. THOMAS** said on top of collecting a premium, it could be a substantial penalty with the three-year calculation to determine what the premium would have been.

Motion: **REP. DRISCOLL** withdrew his motion to amend SB 343.

Vote: **SB 343 BE CONCURRED IN.** Motion carried 14 to 3 with Reps. Dolezal, O'Keefe, and Whalen voting no. Rep. Pavlovich was absent for the vote.

REP. FAGG said that Rep. O'Keefe will amend the bill on the House Floor. Since considerable time has been spent discussing the amendment, is there anyway to discuss the amendment further.

Motion/Vote: **REP. DRISCOLL MOVED TO RECONSIDER ACTION ON SB 343.** Motion carried unanimously. Rep. Pavlovich was absent for the vote.

REP. THOMAS asked **REP. O'KEEFE** if he wanted to make sure that the employer pays the premium that he would have owed. **REP. O'KEEFE** said yes. **REP. THOMAS** said in the bill the minimum would be three annual premiums times two if the minimum is collected. With Rep. O'Keefe's amendment, it would be changed from "may" to "shall" require this collection to be made. If that is done, the bill would be eliminated. The title says to grant the Department discretionary authority. **REP. O'KEEFE** said the only time it would be up to three times is if the employer has been uninsured for three years. If the premium is $25, only $25 should be collected. **REP. THOMAS** said there is a minimum premium of $125 that is required to enroll. That would be the minimum premium. **REP. O'KEEFE** said if it is a firm operating for three years without insuring its workers, then the firm can pay the $750. If it is a firm that only let a payment lapse by one month and owes $25, all that should be collected is $25.

REP. JOHNSON said the language refers only to Fund penalty. Is there someplace else in the law that says what they must do? **REP. DRISCOLL** said Section 39-71-401 says that every employer shall have coverage in the State of Montana in either Plan 1, 2, or 3. This Section deals with what occurs when an employer doesn't have coverage. It may be more acceptable if the Department would say since a premium wasn't paid for the last 2-3 months, therefore, if coverage for a year is paid in advance, the fine will be $25. At least there is coverage for a year for the employees. The fine isn't as important as allowing the Department to have the discretion to get coverage.

REP. BENEDICT said the bill is acceptable the way it is.

REP. O'KEEFE said if an employer is caught and doesn't buy a policy, then he is fined double what the policy would be. **REP. DRISCOLL** said that is what is done now, which is up to twice what the premium would have been but no less than $200. **REP. O'KEEFE** said if the employer didn't have coverage for one month and it wasn't paid, he shouldn't have to pay double or the $200. The premium amount is what should be collected. **REP. DRISCOLL** said when an employer sends in a form to Workers' Compensation which includes employees from the past quarter, then the employer is sent a bill. If the bill isn't paid within 30 days, they send a letter saying the policy will be canceled. The employer can call and ask for a little more time. Currently, it can be delayed for six months as long as the employer keeps in contact with them.

REP. WHALEN asked **Ms. McClure** if there was a provision in the current law in which the unpaid premium has to be collected, and this particular section being discussed is an additional penalty. Is this section the only mechanism in the law for dealing with uninsured employers? **Ms. McClure** said this is it.

REP. JOHNSON suggested inserting "between the premium cost and up to double the premium amount" on Line 17 after "of."

Ms. McClure asked **REP. O'KEEFE** if his point was to say on Line 17 to fund the penalty of either the actual premium amount owed or up to double if the employer is uninsured? **REP. O'KEEFE** said yes.

REP. WHALEN asked **REP. O'KEEFE** if the Department discovers an employer is uninsured, the employer should be charged the premium that should have been paid for the period of time. **REP. O'KEEFE** said yes. **REP. WHALEN** asked if his amendment was for the Department to collect at least the premium amount for the Uninsured Employers' Fund. It would be left up to the discretion of the Department to determine the penalty of up to double the amount of the premium collected. **REP. O'KEEFE** said yes.

Motion: **REP. O'KEEFE** moved to amend SB 343 as described by Rep. Whalen.

REP. THOMAS asked if the minimum fine would be the three-years premium. **REP. O'KEEFE** said up to; if the employer only missed one month he wouldn't have to pay for three years.

REP. WHALEN clarified the amendment. If an employer is found by the Department to be uninsured, the Department will collect the unpaid premium for the determined period of time. In its discretion, based upon the circumstances of each case, the Department may levy a penalty of up to double the premium amount that has been determined to have been unpaid. The Department wouldn't have to levy the penalty, but at least the unpaid premium would be collected for the period of time that the Department determines that there was non-coverage.

REP. DRISCOLL said if an employer is uninsured and gets caught, the fine is collected by the Department of Labor, but until a premium is paid to the State Fund, that employer will still not be insured.

REP. WHALEN asked **Ms. McClure** if her answer to his previous question was if it was determined that an employer is uninsured, it is too late to buy insurance from the State Fund because they can't issue insurance policies retroactively. The only availability for the Department to fund this Uninsured Employers' Fund is this penalty statute that is being discussed. **Ms. McClure** said yes. **REP. WHALEN** said there is a separate provision that would require a cease and desist order be issued until the employer buys insurance from the State Fund or elsewhere. **Ms. McClure** said she didn't know where it was in the Codes but assumed it was correct. **REP. WHALEN** said if the amendment is passed, it will provide a mechanism to make sure that uninsured employer doesn't have an economic incentive to go without insurance, because if he is caught he will have to make up the back premium and at the same time be required to purchase insurance from the State Fund or another insurance carrier under the threat of having a cease and desist order issued to shut down his business.

REP. O'KEEFE said without the amendment there is no penalty for being uninsured.

Vote: REP. O'KEEFE'S AMENDMENT TO SB 343. Motion failed 8 to 10. **EXHIBIT 10**

Motion/Vote: REP. WANZENRIED MOVED SB 343 BE CONCURRED IN. Motion carried 16 to 2 with Reps. O'Keefe and Whalen voting no.

EXECUTIVE ACTION ON SB 237

Motion/Vote: REP. JOHNSON MOVED SB 237 BE CONCURRED IN. Motion carried 11 to 7 with Reps. Beck, Cocchiarella, Dolezal, Kilpatrick, Southworth, Squires, and Wanzenried voting no.

ADJOURNMENT

Adjournment: 5:30 p.m.

CAROLYN SQUIRES, Chair

JENNIFER THOMPSON, Secretary

CS/jt

LA031191.HM1

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE 3/11/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE	✓		
REP. GARY BECK	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON	✓		
REP. THOMAS LEE	✓		
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

CS05COM.man

HOUSE STANDING COMMITTEE REPORT

March 12, 1991

Mr. Speaker: We, the committee on Labor report that Senate Bill 343 (third reading copy -- blue) be concurred in .

Signed: _____
Carolyn Squires, Chairman

Carried by: Rep. Benedict

EXHIBIT 10
DATE 3/11/91
SB SB 343

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL VOTE

DATE 3/11/91 BILL NO. 343 NUMBER

MOTION: Amendment

NAME	AYE	NO
REP. JERRY DRISCOLL		✓
REP. MARK O'KEEFE	✓	
REP. GARY BECK	✓	
REP. STEVE BENEDICT		✓
REP. VICKI COCCHIARELLA		✓
REP. ED DOLEZAL	✓	
REP. RUSSELL FAGG		✓
REP. H.S. "SONNY" HANSON		✓
REP. DAVID HOFFMAN		✓
REP. ROYAL JOHNSON		✓
REP. THOMAS LEE		✓
REP. BOB PAVLOVICH		✓
REP. JIM SOUTHWORTH	✓	
REP. FRED THOMAS		✓
REP. DAVE WANZENRIED	✓	
REP. TIM WHALEN	✓	
REP. TOM KILPATRICK, VICE-CHAIRMAN	✓	
REP. CAROLYN SQUIRES, CHAIR	✓	
TOTAL	8	10

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

LABOR & EMPLOYMENT RELATIONS COMMITTEE BILL NO. SB 343

DATE 3/11/91 SPONSOR(S) Sen. David Rye

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mike Maciaw	DLI	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.